

# EXHIBIT

# 4

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF TENNESSEE  
3                   GREENVILLE DIVISION

4                   \_\_\_\_\_  
5                   ULTIMA SERVICES CORPORATON,

6                   Plaintiff,

7                   v.

Case No.

8                   U.S. DEPARTMENT OF

2:20-cv-00041-DCLC-CRW

9                   AGRICULTURE, ET AL.,

10                  Defendants.  
11                  \_\_\_\_\_

12                   DEPOSITION OF CELESTE BENNETT

13                  DATE:               Wednesday, March 16, 2022

14                  TIME:               9:34 a.m.

15                  LOCATION:           Remote Proceeding - DC

16                                       Virtual Zoom

17                                       Washington, DC 20005

18                  REPORTED BY:       Shondra Dawson, Notary Public

19                  JOB No.:           5106847  
20  
21  
22

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<p>1                   A P P E A R A N C E S</p> <p>2 ON BEHALF OF PLAINTIFF:</p> <p>3     MICHAEL E. ROSMAN, ESQUIRE</p> <p>4     Center for Individual Rights</p> <p>5     1100 Connecticut Avenue NW, Suite 635</p> <p>6     Washington, DC 20036</p> <p>7     rosman@cir-usa.org</p> <p>8     202-833-8402</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANTS:</p> <p>11    JULIET GRAY, ESQUIRE</p> <p>12    Department of Justice Civil Rights Division</p> <p>13    Employment Litigation Section</p> <p>14    150 M Street, NE</p> <p>15    Washington, DC 20530</p> <p>16    Juliet.gray@usdoj.gov</p> <p>17    202-598-1600</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20    K'Shaani Smith, Counsel for Plaintiff</p> <p>21    Michelle Scott, Counsel for Defendant</p> <p>22</p>	<p>1                   P R O C E E D I N G S</p> <p>2           REPORTER: This is an audio test of</p> <p>3 5106487. This is an audio test. Ultima Services</p> <p>4 Corporation versus U.S. Department of Agriculture, et</p> <p>5 al. This is an audio test. This is a second audio</p> <p>6 test. This is a second audio test.</p> <p>7           ELECTRONIC FEMALE VOICE: Recording in</p> <p>8 progress.</p> <p>9           REPORTER: Good morning. My name is</p> <p>10 Shondra Dawson. I am the reporter assigned by</p> <p>11 Veritext to take the record of this proceeding. We</p> <p>12 are now on the record at 9:34 a.m. This is the</p> <p>13 deposition of Celeste Bennett/Ultima Services</p> <p>14 Corporation taken in the matter of Ultima Services</p> <p>15 Corporation versus the U.S. Department of Agriculture,</p> <p>16 et. al, on March 16, 2022, remote via Zoom.</p> <p>17           I am a notary authorized to take</p> <p>18 acknowledgements and administer oaths in the District</p> <p>19 of Columbia. Parties agree that I will swear in the</p> <p>20 witness remotely outside of his or her presence.</p> <p>21           Additionally, absent an objection on</p> <p>22 the record before the witness is sworn, all parties</p>
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<p>1                   I N D E X</p> <p>2                                   PAGE</p> <p>3 By Ms. Gray                   11</p> <p>4</p> <p>5                   E X H I B I T S</p> <p>6 NO.           DESCRIPTION                   PAGE</p> <p>7 Exhibit 1     Lusa SAM.gov Entry           35</p> <p>8 Exhibit 2     3/16/18 Email from Ms. Bennett</p> <p>9               To NRCS                       149</p> <p>10 Exhibit 3     4/20/18 Email to</p> <p>11               NRCS South Dakota           153</p> <p>12 Exhibit 4     Complaint                   158</p> <p>13 Exhibit 5     Plaintiff Initial Disclosure   170</p> <p>14 Exhibit 6     3/28/18 USDA Memorandum   174</p> <p>15 Exhibit 7     2016 to 2021 Financial</p> <p>16               Documents for Ultima and Lusa   185</p> <p>17 Exhibit 8     Spreadsheet                  206</p> <p>18 Exhibit 9     5/30/20 Wells Fargo</p> <p>19               Credit Application           222</p> <p>20</p> <p>21               (*Exhibits attached.)</p> <p>22</p>	<p>1 and the witness understand and agree that any</p> <p>2 certified transcript produced from the recording</p> <p>3 virtually of this proceeding is intended for all uses</p> <p>4 permitted under applicable, procedural and evidentiary</p> <p>5 rules and laws in the same manner as a deposition</p> <p>6 recorded by stenographic means and shall constitute</p> <p>7 written stipulation of such.</p> <p>8           At this time, will everyone in</p> <p>9 attendance, please identify yourself for the record?</p> <p>10           MS. GRAY: My name is Juliet Gray, and</p> <p>11 I represent the defendants in this matter.</p> <p>12           MR. ROSMAN: My name is Michael Rosman.</p> <p>13 I represent the plaintiff and the witness in this</p> <p>14 matter.</p> <p>15           MS. SMITH: My name is K'Shaani Smith -</p> <p>16 - sorry.</p> <p>17           THE WITNESS: Pardon me, K'Shaani.</p> <p>18           MS. SMITH: My name is K'Shaani Smith.</p> <p>19 I represent the defendant in this matter.</p> <p>20           THE WITNESS: And I'm Celeste Bennett,</p> <p>21 and I represent the plaintiff in this matter.</p> <p>22           MS. SCOTT: I'm Michelle Scott, and I</p>

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<p>1 A Yes.</p> <p>2 Q Is there a maximum number of people you</p> <p>3 think Lusa could employ based on your current business</p> <p>4 operation?</p> <p>5 A I would employ as many people as I could,</p> <p>6 because that's more work. So, I want to be</p> <p>7 successful. There are some instances where you might</p> <p>8 not want to do that. So, you might want to maintain</p> <p>9 your size. So, there are some cases where maybe I</p> <p>10 wouldn't have done that, or I wouldn't have sought out</p> <p>11 more work, because I was trying to preserve work that</p> <p>12 I had and didn't want to lose that in the future. So,</p> <p>13 that's a kind of, "It depends" answer.</p> <p>14 If we have the capability to hire more</p> <p>15 people, yes, we have systems that are scalable, and we</p> <p>16 are able to do that. It doesn't necessarily mean we</p> <p>17 would choose to do that.</p> <p>18 Q So, what do you mean by maintain your size?</p> <p>19 A So, if you have work with an agency that</p> <p>20 you've done business with for a long time like with,</p> <p>21 let's say, with NRCS. I had always tried to make sure</p> <p>22 that we could continue to bid on that type of work,</p>	<p>1 increase. So, you could become smaller and reenter</p> <p>2 your size standard and be able to compete the size</p> <p>3 standard you want to compete under, or the size</p> <p>4 standard can become bigger. And I don't know the</p> <p>5 methodology for that, but I know that size standards</p> <p>6 for NAICS codes have increased over time. And so, you</p> <p>7 can also hope for that, too.</p> <p>8 Q Do you think you could scale up your</p> <p>9 operation if you were successful at winning more bids?</p> <p>10 A Yes, I could. All of our operations, for</p> <p>11 the most part, are Cloud-based. So, that would be</p> <p>12 very easy to do.</p> <p>13 Q What do you mean by Cloud-based?</p> <p>14 A Sorry, system. I said operations. Our</p> <p>15 systems are Cloud-based. So, we could continue to use</p> <p>16 our existing payroll service. We wouldn't have to</p> <p>17 change that necessarily. We could use our existing</p> <p>18 benefits providers. We could use the offices that we</p> <p>19 have available. We could hire more people. We could,</p> <p>20 yes, because don't create anything. We have services</p> <p>21 business, so it is very scalable just by its nature.</p> <p>22 MS. GRAY: We've been going for about</p>
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<p>1 because they were such an important client to us. So,</p> <p>2 that's an example for me.</p> <p>3 But in general, I'm aware there's some NAICS</p> <p>4 codes that are not -- The large/small business</p> <p>5 designation is not based on revenue but based on</p> <p>6 employee count. I don't know if those apply to me or</p> <p>7 not, but that's a scenario where a company might not</p> <p>8 want to increase their size, because it changes the</p> <p>9 competitive landscape for them.</p> <p>10 Q So, is it fair to say that, in some</p> <p>11 instances at least, the benefits of maintaining your</p> <p>12 size as a small business are better than increasing</p> <p>13 your business revenue and size?</p> <p>14 A Yes. That would be a decision you would</p> <p>15 make -- That could be a day-to-day business decision.</p> <p>16 It really just depends, because size standards are</p> <p>17 fluid also. So, you could conceivably be out of a</p> <p>18 size standard today, and in it tomorrow, and I mean</p> <p>19 that by year. So, it's not something that once you're</p> <p>20 out of it, you're just out of it. You can always go</p> <p>21 back to it.</p> <p>22 And also, size standards also might</p>	<p>1 an hour and a half. So, why don't we take a short</p> <p>2 break, about 10 minutes. Does that work for everyone?</p> <p>3 THE WITNESS: That would be great.</p> <p>4 Thank you.</p> <p>5 MS. GRAY: Okay. So, why don't we meet</p> <p>6 back here at 11:05.</p> <p>7 THE WITNESS: Do we need to stop video,</p> <p>8 or do I do anything on my end?</p> <p>9 MS. GRAY: Probably just mute. You can</p> <p>10 turn your video off if you want privacy, and then you</p> <p>11 can come back at 1:05. I mean -- I'm sorry -- 11:05.</p> <p>12 REPORTER: Okay. We are off the</p> <p>13 record.</p> <p>14 (Off the record.)</p> <p>15 ELECTRONIC FEMALE VOICE: Recording</p> <p>16 stopped.</p> <p>17 REPORTER: We are back on the record at</p> <p>18 11:06 a.m.</p> <p>19 BY MS. GRAY:</p> <p>20 Q Ms. Bennett, do you understand that you're</p> <p>21 still under oath?</p> <p>22 A Yes.</p>